IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No.1156 of 2002

Date of decision 1.5.2007

Pradip Singh Petitioner

Vs.

U.O.I. and others Respondents

Coram:

The Hon'ble Mr.Justice Rajiv Sharma,J.

Whether approved for reporting?[1] Yes.

For the Petitioner: Mr. Shrawan Dogra, Advocate.

For the Respondents : Mr.Sandeep Sharma, Assistant Solicitor General of India, for respondents No.1 and 4.

Mr.M.S.Chandel, Advocate General, with Mr.M.A.Khan and Ms.Meenakshi Sharma, Dy. Advocate Generals, for respondent No.2.

Mr.V.D.Khidtta, Advocate, for respondent No.3.

Mr.Rajneesh Maniktala, Advocate, for respondent No.5 and 6.

Rajiv Sharma, J.(Oral)

By medium of this petition the petitioner is seeking directions to the respondents No.5 and 6 to release the pay scale as is payable and admissible to the similarly situated lecturers of Government Institutions.

Brief facts necessary for the adjudication of this petition are that the petitioner was appointed as lecturer in respondent No.6 College in the pay scale of Rs.2200-4000 with basic pay of Rs.2200 per month plus usual allowances. The petitioner made a representation to the respondent No.6 on 11.6.2002, copy of which was also endorsed to the Vice Chancellor of the respondent No.3 University, stating therein that he is entitled to the pay scale as recommended by University Grant Commission as per the

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[1] Whether reporter of local papers are allowed to see the judgment ? Yes.

Rules and Regulations of the H.P. University. He also pointed out in his representation that the pay scales have been revised with effect from 1996. The representation was reiterated by the petitioner on 9.7.2002. In sequel to the representation sent by the petitioner the respondent No.3 University has sought explanation from the respondent No.6 on 4th July, 2002.

Mr.Shrawan Dogra submits on behalf of the petitioner that the respondent No.6 College is affiliated with the H.P. University and is bound to obey the University Act, statutes and ordinances framed thereunder. Mr.Dogra has drawn the attention of this Court to para 7 of Annexure P-5 which is reproduced below for the better appreciation of the submissions made by him :

> "7. Pay Scales- An affiliated non-government college or institution shall adopt the same pay scales for its teachers as in force from time to time for the teachers in Government colleges of the State. No teacher shall be paid less than the minimum of the pay scale for the post to which he is appointed. "

The respondent No.3 has supported the claim of the petitioner. But respondents No.1,2, 4, 5 and 6 have not chosen to file replies despite the fact that the notices were issued to them on 8.8.2002, returnable within three weeks.

Mr.Maniktala, learned counsel appearing on behalf of respondents No.5 and 6 submits that the petitioner is not entitled to the regular pay scale on the pattern of University grants Commission since his appointed is temporary in nature.

I have perused the record and heard the parties. It is evident from para 7 of Annexure P-5 that an affiliated non Government college or institution is required to adopt the same pay scale for its teachers as is in force from time to time for the teachers in Government colleges of the State. The pay scale of the post of lecturer as per the material placed on

record by the petitioner was revised from Rs.2200-4000 to Rs.8000-13500. It is evident from the Notification dated 14th December, 1998 Annexure P-4 dated 27th October, 1999 that the pay scale of Registrar/Demonstrator which was Rs.2200-4000 was revised to Rs.7880-13500 with a start of Rs.8000/- and one Dr.(Renu Gupta) Medical Officer was appointed in the scale of Rs.7080-13500 with a start of Rs.8000/-. It will be pertinent to note that as per Annexure P-6 issued by the respondent No.4 the salary structure of the staff of the Dental Colleges shall be the minimum of UGC scale and as per the recommendation of the Pay Commission from time to time.

Mr.Dogra has stated at the Bar that the University Grants Commission has revised the pay scales of lecturers with effect from 1.1.1996 from Rs.2200-4000 to Rs.8000-13500. This pay scale has been adopted by the State of Himachal Pradesh and is being paid to the lecturers appointed in Government colleges. Thus this Court is of the opinion that respondents No.5 and 6 are bound to pay the petitioner pay scale of Rs.8000-13500 with effect from 1.1.1996. The respondents No.5 and 6 cannot transgress the University's ordinances with impunity by not paying to the petitioner the same pay scale which is being paid to other counter parts working as lecturers in Government colleges. The institutions are bound by the University Act, statutes and the ordinances on the basis of which they are granted affiliations. If the institution affiliated to a University does not conform to the norms laid down by the University it will be inviting trouble which may ultimately result in the affiliation being withdrawn by the University. Deputy Registrar(Academic) of the University has sought the explanation from the respondent No.6 as far back as on 4th July, 2002 but to no avail. It is incumbent upon the institutions which are affiliated with a particular University to obey the directions issued as per the University Act and statutes. The petitioner's representation was required to be considered by the respondents No.5 and 6. The

respondents No.5 and 6 cannot be permitted to exploit the teachers by paying them less salary. The fact that the petitioner has been appointed on temporary basis is no ground to deny him the regular pay scale at par with regularly appointed lecturers since he is discharging the same duties which are being discharged by regularly appointed teachers on the principle of “equal pay for equal work”.

The salary is a property within the meaning of Article 300-A of the Constitution of India. The employer has to see that the salary in accordance with law is paid to an employee regularly. In the present case the petitioner has been deprived of his valuable right to get enhanced salary with effect from 1.1.1996 only due to callous attitude of the respondents No.5 and 6.The petitioner till date is getting the salary in the pay scale of Rs.2200-4000 though he is entitled to pay scale of Rs.8000-13500 with effect from 1.1.1996.

Consequently the writ petition is allowed, the respondents No.5 and 6 are directed to release the petitioner’s salary in the pay scale of Rs.8000-13500 with effect from 1.1.1996 with interest at the rate of 12% per annum within eight weeks from the date of receipt of copy of this judgment. The respondent No.3 is directed to ensure that this direction is implemented in letter and spirit and if the pay scale as directed is not released to the petitioner appropriate action under the University Act, statues and the ordinances be initiated against respondents No.5 and 6. It is the duty cast upon respondent No.2 State also to ensure that the institutions to which no objection certificate is issued by it, do not violate the norms laid down by the State as well as by the University. The role of the State does not cease after issuing no objection certificate. It has to ensure that the institutions do not indulge in exploitation at any level. A copy of this judgment be also sent to respondent No.4 to take action against respondents No.5 and 6 as per the law for not following its dictates like Annexure P-6 on the basis of which the salary structure of the staff of

the Dental Colleges shall be minimum of UGC scales as per the recommendations of the Pay Commission from time to time. The petitioner is also entitled to the cost quantified Rs.10,000/- to be paid by respondents No.5 and 6 within a period of six weeks.

May 1,2007(g) **(Rajiv Sharma), J.**